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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CR-2437-2021

Date of decision:15.05.2025

BALWINDER SINGH

...PETITIONER

VS.

SUKHWINDER SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

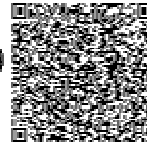
Present: Mr. Akshay Bansal, Advocate
for the petitioner.

Mr. Tejinderbir Singh, Advocate
for the respondent.

SUVIR SEHGAL, J.

1. Aggrieved of order dated 12.02.2020, Annexure P-2, passed by learned Civil Judge (Junior Division), Moonak, whereby an application for producing additional evidence has been accepted, petitioner/defendant has approached this Court by way of instant revision petition.

2. Mr. Akashay Bansal, counsel for petitioner submits that respondent/plaintiff has filed a suit for recovery of Rs.2,93,000/- along with interest on the basis of a pronote and receipt dated 07.01.2013, which has been denied by the defendant. Counsel states that after both the parties concluded their evidence, plaintiff intended to produce an expert as witness during rebuttal and defendant filed an application for disallowing the

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plaintiff from doing so. Counsel submits that after contest, this application was rejected by the trial Court vide order dated 11.01.2018, Annexure P-5. He asserts that defendant approached this Court by filing a revision petition (CR-1198-2018), which was accepted and this Court set aside the impugned order. Counsel asserts that now by way of instant application, plaintiff has sought production of a forensic expert by way of additional evidence, which has been erroneously allowed by the Trial Court.

3. Per contra, counsel for the respondent has argued that in his evidence, defendant has examined experts and in order to rebut his evidence, it is necessary to produce a handwriting expert by way of additional evidence. He urges that the report of the expert produced by the defendant is based on the thumb impressions, which were not affixed in the Court and the report cannot be relied upon.

4. I have heard counsel for the parties and considered their respective submissions besides examining the documents appended with the paper-book.

5. Plaintiff has filed a suit for recovery of money along with interest on the basis of a pronote and receipt allegedly executed by the defendant. While contesting the suit, the defendant has taken a stand that he never executed these documents nor do they bear his thumb impression. After the trial Court framed issues, plaintiff produced two witnesses in support of his case and closed the evidence on 19.09.2016. In his evidence, defendant examined a document expert and closed his evidence on 17.05.2017. In rebuttal, plaintiff wanted to examine a handwriting expert, when an application, Annexure P-5, was filed by the defendant, which was



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rejected by the Trial Court but in revision, this Court passed the following order on 20.11.2018, Annexure P-1:-

“The present revision petition is directed against the impugned order dated 11.01.2018, whereby, the respondent-plaintiff in the absence of any rebuttal issue has been given liberty to lead evidence in rebuttal.

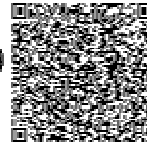
It is a matter of record that in a suit for recovery of amount, the plaintiff's evidence was closed without giving any opportunity. In view of the parameters laid down by the Division Bench of this Court in Avtar Singh and another Vs. Baldev Singh and others 2015(1) PLR 230, the Court below could not have granted the liberty in rebuttal.

It is a common practice followed by the trial Court for not fixing the case for arguments and therefore nomenclature of rebuttal evidence which is absent, thus, would not clothe the plaintiff to lead evidence in rebuttal.

Resultantly, the impugned order is hereby set aside and the revision petition is allowed.”

6. When the plaintiff did not succeed in leading evidence in rebuttal, he found a guise and filed an application, Annexure P-6, for leading additional evidence in the shape of examination of a forensic expert. This application has been allowed by the Trial Court vide order impugned herein. However, the Trial Court has neither reverted to the order, Annexure P-1, passed by this Court nor has it given any reason for accepting the application. After noticing the contentions of both the parties, the application has been allowed by the Trial Court by simply observing

“Heard. Sufficient ground is made out. Thereby, application stands allowed.”



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7. Impugned order passed by the Trial Court is sans any reason. Trial Court has neither noticed that there is no provision for leading additional evidence after the amendment of the Code of Civil Procedure nor has it taken care to notice the observations made by this Court in order, Annexure P-1. Although, Order 18 Rule 17-A, CPC has been omitted by virtue of amendment in the year 2002, but inherent power under Section 151, CPC can be exercised to deal with a situation not provided for in CPC, to meet the ends of justice and to prevent the abuse of process of the Court. It has been held by the Supreme Court in **K. K. Velusamy Vs. N. Palanisamy (2011) 11 SCC 275** that while dealing with an application under Section 151, CPC seeking production of additional evidence and recalling of witnesses after the parties have concluded their evidence, Court should ensure that it is not a dilatory tactic and that non-production of additional evidence earlier was for a valid reason.

8. An analysis of the application, Annexure P-6, filed by the plaintiff shows that the plaintiff has not assigned any reason whatsoever explaining the failure for producing an expert during the course of his evidence. The only reason given in the application is that due to inadvertence, plaintiff could not reserve right to lead evidence in rebuttal and the examination of an expert is necessary in order to rebut the evidence produced by the defendant. It is not the case of plaintiff that he did not get ample or sufficient opportunity to produce evidence in support of his case. Procrastination on the part of the plaintiff is apparent. It is, therefore, evident that the Trial Court has clearly erred in accepting the application vide the



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impugned order. Impugned order suffers from serious irregularity, illegality and perversity. It cannot be sustained.

9. For the afore-going reasons, revision petition is allowed. Impugned order dated 12.02.2020, Annexure P-2, is set aside and application, Annexure P-6, filed by the respondent/plaintiff is dismissed with no order as to costs.

15.05.2025

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No